

Subcommittee on Oversight and Investigations

Louie Gohmert, Chairman

Hearing Memorandum

May 20, 2016

To: All, Subcommittee on Oversight and Investigations Members

From: Majority Committee Staff, Subcommittee on Oversight & Investigations,
(x5-7107)

Hearing: Oversight hearing titled “*Investigating the Culture of Corruption at the Department of the Interior*”

The House Committee on Natural Resources, Subcommittee on Oversight and Investigations will hold an oversight hearing entitled, “*Investigating the Culture of Corruption at the Department of the Interior*” on **Tuesday, May 24th at 2:00 p.m. in Room 1334 of the Longworth House Office Building.**

Policy Overview:

- Early in the Obama Administration, the Department of the Interior (the “Department” or DOI) reorganized the hierarchy under which its Ethics Office operated, requiring the previously independent Designated Agency Ethics Official (DAEO) and her team to report directly to the Solicitor’s office.
- In recent months, the DOI Office of Inspector General (OIG) has released reports detailing multiple instances of misconduct within the Department and its sub-agencies.
- This hearing will focus on how DOI’s culture and ethics structure has contributed to an environment in which ethics violations are commonplace, particularly on the part of political appointees. Serious questions remain unanswered about the Department’s lack of accountability for these specific instances of employee misconduct.

Invited Witnesses:

Mr. Edward Keable
Deputy Solicitor for General Law
Office of the Solicitor
U.S. Department of Interior
Washington, D.C.

Ms. Mary Kendall
Deputy Inspector General
Office of the Inspector General
U.S. Department of Interior
Washington, D.C.

Background:

Ethics Office Structure and Funding

The DOI Ethics Office is housed within the Interior Department's Office of the Solicitor. The Designated Agency Ethics Official (DAEO), Melinda Loftin, reports directly to the Deputy Solicitor for General Law, Edward Keable.

Each bureau within DOI has an ethics officer to whom employees can contact directly for guidance. Each bureau officer in turn works in coordination with the DAEO. For FY 2016, the DOI Ethics Office was funded at a level of \$1.738 million.¹

Relevant Past Administration Activities

In 2004, as a result of a highly publicized ethics investigation of a senior political appointee during the previous Administration, the OIG recommended that:

- DOI appoint a single, qualified entity—the Designated Agency Ethics Official (DAEO)—to serve as the ethics authority for the entire Department.
- The Solicitor's office should no longer be in the business of providing ethics advice, and that DOI should remove the Ethics Office from the supervision of the Deputy Solicitor for General Law.
- Political appointees must seek ethics advice only from the DAEO and his/her staff.
- The DOI Ethics office should be well-funded and well-staffed with individuals possessing expertise in ethics.
- The Ethics office should improve its record management and tracking system.²

Notably, Deputy Inspector General Mary Kendall, who has served as a Deputy Inspector General (IG) at DOI since 1999, participated in crafting the recommendations of this report.³ In an effort to avoid future instances of ethical misconduct on the part of DOI political appointees and employees, DOI followed many of the OIG's recommendations in the wake of the investigation in the previous Administration.

Ms. Melinda Loftin, a highly experienced ethics professional, was appointed DAEO in 2006 by then-Secretary of Interior Dirk Kempthorne, and the ethics office was made independent

¹ Consolidated Appropriations Act, 2016, Pub. L. No. 114-113 (2015).

² U.S. Dep't of Interior Office of Inspector General, PI-SI-02-0053-I, Report of Investigation—Steven J. Griles (2004).

³ See, U.S. Dept't of Interior, <https://www.doioig.gov/about-us/deputy-inspector-general> (last visited May, 18 2016).

of the Solicitor's office.⁴ Of critical importance, political appointees were instructed to seek ethics advice solely from the Ethics Office rather than the Solicitor's Office.

Shortly after the start of the current Administration, the independence of the DAEO and her team was revoked and the Ethics Office was moved back under the supervision of the Deputy Solicitor for General Law. This action was completely at odds with the OIG recommendations from 2004.⁵

Relevant Recent Committee Activities

In September 2014, during the previous Congress, this Committee released an oversight Staff Report entitled "*Ethics Under Review: An Oversight Investigation Into the Department of Interior's Ethics Program and how Recusals are Managed by Senior Officials.*"⁶ The Report found that the ethics operations at DOI, which had been moved back under the authority of the Solicitor's office, were again suffering from mismanagement, delays, lack of tracking systems for ethics violations, and lack of transparency. Inefficient operations and confusion about the authority of the Ethics Office within DOI discouraged employees from seeking ethical advice.

Most troubling, the 2014 Committee report found that DOI ethics officers were directed to avoid offering advice to political appointees without approval from management—this is in direct opposition to OIG recommendations issued in 2004, recommendations which Deputy IG Mary Kendall participated in crafting.

Importantly, two of the subjects of the recent OIG reports are high-ranking political appointees within the Obama Administration.

DOI Ethics Regulations/Policies

Ethics requirements at DOI are governed by 5 C.F.R. 2635 and by three executive orders (EOs 12674, 12731, and 13490 spanning the Bush (41) and the Obama Administrations). Employees are required to adhere to ethical guidelines, work with ethics officers assigned to each bureau to sort out whether they should participate in activities that may be unethical or perceived to be unethical, and to take an ethics pledge.⁷

Examples of Recent DOI High Level Ethics Violations

The DOI OIG recently released three reports detailing instances in which high-ranking DOI employees used their positions for personal gain for themselves or for members of their families.

⁴ See, Press Release, U.S. Dep't of Interior, Secretary Kempthorne Announces Selection of Melinda Loftin as New Director of Interior Ethics Office (Oct. 17, 2006).

⁵ See, U.S. Dep't of Interior, https://solicitor.doi.gov/SOL_Org_Chart.pdf (last visited May, 18, 2016).

⁶ Majority Staff of H. Comm. on Natural Resources, 113th Cong., Rep. on Ethics Under Review: An Oversight Investigation Into the Department of Interior's Ethics Program and How Recusals are Managed for Senior Officials (2014).

⁷ See, Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. 2635 (1992); and Exec. Order No. 12674, 54 Fed. Reg. 15159 (Apr. 14, 1989); and Exec. Order No. 12731, 55 Fed. Reg. 42547 (Oct. 19, 1990) and Exec. Order No. 13490, 74 Fed. Reg. 4673 (Jan. 26, 2009).

a) National Park Service Director John Jarvis

The OIG [released a report](#) on February 25, 2016 in which it found Jonathan Jarvis, Director of the National Park Service (NPS), had written and published a book in direct violation of DOI ethics standards. These violations included use of his position to obtain the book deal, use of the NPS official logo, and marketing the book in NPS stores.⁸ Director Jarvis admitted that he had not sought guidance from the ethics office because it would have been a time consuming process. He also stated that he was concerned that ethics would ultimately not allow him to publish the book if he sought guidance.

Astonishingly, in 2009, Director Jarvis himself circulated a memo detailing his expectation that NPS employees maintain the highest ethical standards.

b) NPS Yellowstone Chief Ranger Timothy Reid

The OIG [released a report](#) on March 14, 2016 in which it found the Chief Ranger of Yellowstone National Park, Timothy Reid, has not lived in his NPS apartment on Yellowstone property since he was appointed Chief Ranger in 2009.⁹ Chief Rangers are required to live on-property.

Instead, Mr. Reid inappropriately allowed guests to use the apartment and his wife was offered use of the apartment as an overflow space from his family's bed and breakfast operation. The apartment was used as part of an international home exchange in which he and his family participated. He has publicly stated that during his public service, he and his family often travel internationally.

Chief Ranger Reid is a 28-year veteran of the Park Service and has held his position at Yellowstone since the beginning of the Obama Administration. In May of 2015 he was given the additional responsibility of serving as Superintendent of Devils Tower national monument, which receives millions in federal taxpayer dollars each year.

c) Bureau of Indian Education (BIE) Director of Education Dr. Charles "Monty" Roessel

The OIG [released a report](#) on March 30, 2016 in which it found the BIA's Director of Education improperly used his position to hire his lover and a relative.¹⁰

In the process of securing a job for these individuals he instructed a human resources officer to modify the job description to ensure that the unqualified individual would meet the criteria for the position.

Dr. Roessel held the position since 2012, and is a member of the Navajo Nation. The BIE is responsible for educating approximately 47,000 Native American students nationwide.

⁸ U.S. Dep't of Interior Office of Inspector General, Investigative Report of Jonathan Jarvis (2016).

⁹ U.S. Dep't of Interior Office of Inspector General, Investigative Report of Timothy Reid, Chief Ranger, Yellowstone National Park (2016).

¹⁰ U.S. Dep't of Interior Office of Inspector General, Investigation of Improper Hiring at the Bureau of Indian Education (2016).